

HOUSE BILL 472

N1

11r2116

By: **Delegates Stein and Beidle**

Introduced and read first time: February 7, 2011

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Common Ownership Communities – Amendment to Declaration or Bylaws**

3 FOR the purpose of authorizing a condominium council of unit owners or board of
4 directors to execute and record a corrective amendment to the declaration or
5 bylaws to comply with the law under certain circumstances; requiring the
6 council or board to record certain documents with the amendment; providing for
7 the recordation and effectiveness of an amendment; authorizing the board of
8 directors or other governing body of a homeowners association to execute and
9 record a corrective amendment to the declaration or bylaws to comply with the
10 law under certain circumstances; requiring the board or other governing body to
11 record certain documents with the amendment; providing for the recordation
12 and effectiveness of an amendment to the declaration; providing for the deposit
13 in a certain depository and the effectiveness of an amendment to the bylaws;
14 authorizing a cooperative housing corporation or board of directors to execute
15 and record a corrective amendment to the bylaws to comply with the law under
16 certain circumstances; requiring the corporation or board to record certain
17 documents with the amendment; and generally relating to corrective
18 amendments to the declaration or bylaws of certain common ownership
19 communities.

20 BY repealing and reenacting, with amendments,
21 Article – Real Property
22 Section 11–103.1
23 Annotated Code of Maryland
24 (2010 Replacement Volume and 2010 Supplement)

25 BY adding to
26 Article – Real Property
27 Section 11B–113.6
28 Annotated Code of Maryland
29 (2010 Replacement Volume and 2010 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
2 Article – Corporations and Associations
3 Section 5–6B–18.7
4 Annotated Code of Maryland
5 (2007 Replacement Volume and 2010 Supplement)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
7 MARYLAND, That the Laws of Maryland read as follows:

8 **Article – Real Property**

9 11–103.1.

10 (a) Unless the declaration or bylaws provide otherwise and subject to
11 subsections **[(b)] (C)** and **[(c)] (D)** of this section, the council of unit owners or the
12 board of directors may execute and record an amendment to the declaration, bylaws,
13 or plat, to correct:

14 (1) A typographical error or other error in the percentage interests or
15 number of votes appurtenant to any unit;

16 (2) A typographical error or other incorrect reference to another prior
17 recorded document; or

18 (3) A typographical error or other incorrect unit designation or
19 assignment of limited common elements if the affected unit owners and their
20 mortgagees consent in writing to the amendment, and the consent documents are
21 recorded with the amendment.

22 **(B) UNLESS THE DECLARATION OR BYLAWS PROVIDE OTHERWISE AND**
23 **SUBJECT TO SUBSECTIONS (C) AND (D) OF THIS SECTION, IF AN AMENDMENT TO**
24 **A LAW INVALIDATES A PROVISION OF THE DECLARATION OR BYLAWS, THE**
25 **COUNCIL OF UNIT OWNERS OR THE BOARD OF DIRECTORS MAY EXECUTE AND**
26 **RECORD AN AMENDMENT TO THE DECLARATION OR BYLAWS TO CORRECT THE**
27 **DECLARATION OR BYLAWS TO COMPLY WITH THE LAW.**

28 **[(b)] (C)** If a council of unit owners or board of directors executes and
29 records an amendment under subsection (a) **OR (B)** of this section, the council or board
30 shall also record with the amendment:

31 (1) During the time that the developer has an interest:

32 (i) The consent of the developer; or

33 (ii) An affidavit by the council or board that any developer who
34 has an interest in the condominium has been provided a copy of the amendment and a

1 notice that the developer may object in writing to the amendment within 30 days of
2 receipt of the amendment and notice, that 30 days have passed since delivery of the
3 amendment and notice, and that the developer has made no written objection; and

4 (2) An affidavit by the council or board that at least 30 days before
5 recordation of the amendment a copy of the amendment was sent by first-class mail to
6 each unit owner at the last address on record with the council of unit owners.

7 **[(c)] (D)** An amendment under this section is entitled to be recorded and is
8 effective upon recordation if accompanied by the supporting documents required by
9 this section.

10 **11B-113.6.**

11 (A) UNLESS THE DECLARATION OR BYLAWS PROVIDE OTHERWISE AND
12 SUBJECT TO SUBSECTIONS (B) AND (C) OF THIS SECTION, IF AN AMENDMENT TO
13 A LAW INVALIDATES A PROVISION OF THE DECLARATION OR BYLAWS, THE
14 BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF A HOMEOWNERS
15 ASSOCIATION MAY EXECUTE AND RECORD AN AMENDMENT TO THE
16 DECLARATION OR BYLAWS TO CORRECT THE DECLARATION OR BYLAWS TO
17 COMPLY WITH THE LAW.

18 (B) IF THE BOARD OF DIRECTORS OR OTHER GOVERNING BODY
19 EXECUTES AND RECORDS AN AMENDMENT UNDER SUBSECTION (A) OF THIS
20 SECTION, THE BOARD OF DIRECTORS OR OTHER GOVERNING BODY SHALL ALSO
21 RECORD WITH THE AMENDMENT:

22 (1) DURING THE TIME THAT THE DEVELOPER HAS AN INTEREST:

23 (I) THE CONSENT OF THE DEVELOPER; OR

24 (II) AN AFFIDAVIT BY THE BOARD OF DIRECTORS OR OTHER
25 GOVERNING BODY THAT ANY DEVELOPER WHO HAS AN INTEREST IN THE
26 DEVELOPMENT HAS BEEN PROVIDED A COPY OF THE AMENDMENT AND A
27 NOTICE THAT THE DEVELOPER MAY OBJECT IN WRITING TO THE AMENDMENT
28 WITHIN 30 DAYS OF RECEIPT OF THE AMENDMENT AND NOTICE, THAT 30 DAYS
29 HAVE PASSED SINCE DELIVERY OF THE AMENDMENT AND NOTICE, AND THAT
30 THE DEVELOPER HAS MADE NO WRITTEN OBJECTION; AND

31 (2) AN AFFIDAVIT BY THE BOARD OF DIRECTORS OR OTHER
32 GOVERNING BODY THAT AT LEAST 30 DAYS BEFORE RECORDATION OF THE
33 AMENDMENT A COPY OF THE AMENDMENT WAS SENT BY FIRST-CLASS MAIL TO
34 EACH LOT OWNER AT THE LAST ADDRESS ON RECORD WITH THE HOMEOWNERS
35 ASSOCIATION.

1 **(C) (1) AN AMENDMENT TO THE DECLARATION UNDER THIS SECTION**
2 **IS ENTITLED TO BE RECORDED AND IS EFFECTIVE UPON RECORDATION IF**
3 **ACCOMPANIED BY THE SUPPORTING DOCUMENTS REQUIRED BY THIS SECTION.**

4 **(2) AN AMENDMENT TO THE BYLAWS UNDER THIS SECTION IS**
5 **ENTITLED TO BE DEPOSITED IN THE HOMEOWNERS ASSOCIATION DEPOSITORY**
6 **ESTABLISHED UNDER § 11B-113 OF THIS SUBTITLE AND IS EFFECTIVE ON**
7 **DEPOSIT IN THE DEPOSITORY IF ACCOMPANIED BY THE SUPPORTING**
8 **DOCUMENTS REQUIRED BY THIS SECTION.**

9 **Article – Corporations and Associations**

10 **5-6B-18.7.**

11 **(A) UNLESS THE BYLAWS PROVIDE OTHERWISE AND SUBJECT TO**
12 **SUBSECTION (B) OF THIS SECTION, IF AN AMENDMENT TO A LAW INVALIDATES A**
13 **PROVISION OF THE BYLAWS, A COOPERATIVE HOUSING CORPORATION OR THE**
14 **BOARD OF DIRECTORS MAY EXECUTE AND RECORD AN AMENDMENT TO THE**
15 **BYLAWS TO CORRECT THE BYLAWS TO COMPLY WITH THE LAW.**

16 **(B) IF A COOPERATIVE HOUSING CORPORATION OR BOARD OF**
17 **DIRECTORS EXECUTES AND RECORDS AN AMENDMENT UNDER SUBSECTION (A)**
18 **OF THIS SECTION, THE COOPERATIVE HOUSING CORPORATION OR BOARD OF**
19 **DIRECTORS SHALL ALSO RECORD WITH THE AMENDMENT:**

20 **(1) DURING THE TIME THAT THE DEVELOPER HAS AN INTEREST:**

21 **(I) THE CONSENT OF THE DEVELOPER; OR**

22 **(II) AN AFFIDAVIT BY THE COOPERATIVE HOUSING**
23 **CORPORATION OR BOARD OF DIRECTORS THAT ANY DEVELOPER WHO HAS AN**
24 **INTEREST IN THE COOPERATIVE HOUSING CORPORATION HAS BEEN PROVIDED**
25 **A COPY OF THE AMENDMENT AND A NOTICE THAT THE DEVELOPER MAY OBJECT**
26 **IN WRITING TO THE AMENDMENT WITHIN 30 DAYS OF RECEIPT OF THE**
27 **AMENDMENT AND NOTICE, THAT 30 DAYS HAVE PASSED SINCE DELIVERY OF**
28 **THE AMENDMENT AND NOTICE, AND THAT THE DEVELOPER HAS MADE NO**
29 **WRITTEN OBJECTION; AND**

30 **(2) AN AFFIDAVIT BY THE COOPERATIVE HOUSING CORPORATION**
31 **OR BOARD OF DIRECTORS THAT AT LEAST 30 DAYS BEFORE RECORDATION OF**
32 **THE AMENDMENT A COPY OF THE AMENDMENT WAS SENT BY FIRST-CLASS MAIL**
33 **TO EACH MEMBER AT THE LAST ADDRESS ON RECORD WITH THE COOPERATIVE**
34 **HOUSING CORPORATION.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2011.